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September 30, 2025

VIA ECF

Hon. Arlene R. Lindsay, U.S.M.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11717

Re: Request for Extension of Time to Complete Depositions of Plaintiffs and other Deadlines

Cruz, et al. v. Demarco Bros. Landscaping & Tree Service Corp., et al.
United States District Court, EDNY Case No. 2:23-cv-9200 (GRB) (ARL)

Dear Judge Lindsay:

We represent all Defendants in the above-referenced matter. Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure (FRCP) and Your Honor's Individual Practices, we respectfully submit this letter motion to request an extension of time to complete the depositions of the named Plaintiffs and to extend all other outstanding deadlines set forth in the Court's July 2, 2025 Order. We have conferred with Plaintiffs' counsel, Steven J. Moser, Esq., regarding this application. However, he does not consent to the requested extension.

Under the current scheduling order, the deadline to complete all fact discovery is September 30, 2025. Despite numerous attempts by the parties to coordinate deposition dates—including through emails and telephone conferences—Plaintiffs' counsel has refused to schedule the depositions of any of the four named Plaintiffs. To date, none of the Plaintiffs have been deposed, although Defendant Theodore Passelis was deposed by Plaintiffs' counsel on May 27, 2018. Since then, Defendants have repeatedly requested that Plaintiffs' depositions be scheduled, but to no avail.

Instead, Plaintiffs' counsel continues to demand a second deposition of Mr. Passelis, without providing good cause. Although we initially agreed to produce Mr. Passelis again—due to a misstatement during his deposition that he possessed additional documentation—he has since confirmed after a diligent search that no such documents are in his possession. Plaintiffs' counsel was informed of this, yet he has refused to proceed with Plaintiffs' depositions unless Mr. Passelis is re-deposed.

Instead, Mr. Moser served Defendants with Plaintiffs' Second Request for Production of Documents and Second Interrogatories ("Second Post-Deposition Demands"). While Defendants remain willing to respond to these requests, Mr. Moser has taken the position that he will not schedule Plaintiffs' depositions until Mr. Passelis is again produced for a second deposition. As a good faith measure, we offered to revisit the issue of a limited continuation of Mr. Passelis' deposition following Defendants' response to the Second Post-Deposition Demands or if Plaintiffs' counsel could articulate a valid basis for the request. Unfortunately, no such basis has been provided, and Plaintiffs' counsel remains unwilling to proceed.

In light of these circumstances, we respectfully request that the Court extend the deadline to complete Plaintiffs' depositions through October 30, 2025, and adjust the related case deadlines accordingly to ensure the orderly progression of the matter.

Subject to the Court's approval, Defendants propose the following revised deadlines:

- **Completion of Plaintiffs' Depositions:** October 30, 2025
- **Completion of All Fact Discovery, inclusive of expert discovery:** November 30, 2025
- **First Step for Dispositive Motion Practice:** December 30, 2025
- **Filing of Joint Proposed Pre-trial Order** (in compliance with the District Judge's Individual Rules, signed by all counsel): February 4, 2026
- **Final Conference:** To be scheduled by the Court

This is Defendants' second request for an extension of these deadlines. The request is made in good faith, not for the purposes of delay, and is necessary to complete discovery efficiently. No party will be prejudiced by the proposed schedule.

We thank the Court for its attention to this matter and are available at the Court's convenience to discuss the proposed schedule or the underlying issues raised herein.

Respectfully Submitted,

s/ Michael P. Giampilis
Michael P. Giampilis

CC: All counsel of record via ECF